

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

COLTON JOINT UNIFIED SCHOOL
DISTRICT, AND EAST VALLEY SELPA

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013100305

ORDER DENYING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

Colton Joint Unified School District and East Valley SELPA (together referred to as “District”) filed a due process complaint on October 7, 2013. An initial continuance was granted during the prehearing conference on October 28, 2013, because Parent did not participate in the prehearing conference. Parent’s special education advocate and District jointly requested a second continuance on November 7, 2013, which was granted on November 7, 2013. The matter was reset for hearing on January 27-30, 2014. On January 7, 2014, the parties jointly filed a stipulation seeking a third continuance of the hearing dates, to March 24-27, 2014. However, the stipulation fails to state any factual basis supporting a third request for continuance.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party’s excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The parties have failed to offer any facts whatsoever that establish a basis for good cause to continue this matter a third time and for another 60 days. The parties may resubmit their request for continuance, providing they establish a factual basis for good cause and offer mutually agreeable dates that are within a reasonable time frame.

IT IS SO ORDERED.

Dated: January 7, 2014

/s/

ADRIENNE L. KRIKORIAN
Acting Presiding Administrative Law Judge
Office of Administrative Hearings